HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 1367 OF 2005.
IN
WRIT PETITION Ld. NO. 3031 OF 2005

USV Limited & Anr. ..Petitioners.

Versus.
Union of India & Anr. ..Respondents.

Shri. N. H. Seervai, Senior Advocate i/b M/s. Druv & Co., for the Petitioners.

Shri. Rajiv Chavan for the respondents - State.

CORAM: Smt. Ranjana P. Desai, & Abhay S. Oka, JJ.

DATE : December 21, 2005.

P.C.

1. The petitioners have inter alia prayed that the respondents be directed to furnish to the petitioners the details as set out in the Schedule annexed as Exhibit-"F" to the Petition. Exhibit-"F" reads thus:

SCHEDULE OF INFORMATION SOUGHT BY THE PETITIONERS.

(a) Details of total quantity and value of production in the country of the bulk drug Doxycycline for the year ended 31st March 1990 together with details of the basis /source supporting such details;

(b) Details of total quantity and value of imports in the country of the bulk drug Doxycycline for the year ended 31st March 1990 together with details of the basis / source supporting such details;

> (c) Details of total quantity and value of export sales the country of the bulk drug Doxycycline for the year ended 31st March 1990 together with details of the basis / source supporting such details;

. We have heard learned counsel for the parties. Shri. Seervai has drawn our attention to the judgment of the Supreme Court in **Secretary, Ministry of Chemicals and Fertilizers, Govt of India v/s. M/s. Cipla Ltd. and others, AIR-2003 SC 3078.** It appears that it is the 2nd respondent who had approached the Supreme Court being aggrieved by the judgment of this court in this very petition. The Supreme Court allowed the appeal and restored the writ petition to the file of this Court. The Supreme Court has directed this Court to consider afresh the relevant aspect concerning the criteria laid down in paragraph 22.7.2 of the Drug Policy of 1994 in relation to each drug having due regard to the observations made by the Supreme Court in the judgment. Paragraph 4(7) of the judgment is material, which reads thus:

> "7. Burden lies on those who challenge the legislation on the ground of violation of Article 14 to make out their case by furnishing all the relevant material which is within their reach and knowledge. There should be frank disclosure of the material facts, moreso, when the plea is founded on certain factual aspects. The mere vagueness or lack of clarity in this stand taken by the Union of India does not by itself

advance the case of the writ petitioners."

. Thus, it appears that the relevant material was not placed before this Court when the Petition was heard earlier. In view of this, in our opinion, prayer clause (a) except the bracketed portion needs to be granted. So far as the bracketed portion and prayer (b) is concerned, the petitioners can renew those prayers at the time of hearing of the petition. Hence, we pass the following order.'

(a) This application is allowed in terms of prayer clause (a) except the bracketed portion. So far as the bracketed portion and prayer (b) is concerned, the petitioners will be at liberty to renew those prayers at the time of final hearing of the petition.

(b) Compliance be made within a period of eight weeks from today.

(c) Application is disposed of in the aforesaid terms.

(SMT. RANJANA P. DESAI, J.)

(ABHAY S. OKA, J.)